

### **REMARKS/ARGUMENTS**

Claims 1 to 10 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 to 10 were also rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1683381 in view of Tobin (2871152).

Paragraphs [0003], [0006] to [0009], [0015] and [0016] of the specification have been amended. Claims 1 to 10 are pending. Claim 1 and claims 3 to 5 have been amended.

Reconsideration of the application is respectfully requested.

#### **35 U.S.C. 112, second paragraph, Rejection**

Claims 1 to 10 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 and the specification now recites “elevations” instead of reliefs. Support is found in [0006] for example.

Withdrawal of the rejection to claim 1 under 35 U.S.C. § 112, second paragraph, is respectfully requested. With respect to the dependent claims 2 to 10, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, is respectfully requested in view of the above.

#### **35 U.S.C. 103(a) Rejections**

Claims 1 to 10 were also rejected under 35 U.S.C. 103(a) as being unpatentable over DE 1683381 in view of Tobin (2871152).

DE 1683381 discloses a floor surface, consisting of a synthetic foil possibly including a felt mat, which on the top surface includes bumps and respectively depressions, whereas the

bumps have a surface in the dimension of several mm<sup>2</sup> and the depressions between the bumps have a width in the dimension of 1 mm by depth in the dimension of 0.1 mm; characterized by, that the depressions (3) are finished smoothly respectively high-glossy and the bumps (2a, 2b) are finished in the known manner, roughly respectively dully.

Tobin (U.S. Patent No. 2,871,152) discloses molded composite articles uniquely combining physical and decorative characteristics and with a new molding method. See Tobin, Col. 1, lines 15 to 20. The molded composite article comprises a clear plastic body having substantially smooth and continuous top, bottom and side surfaces, an internal network structure constituting in effect, a matrix and chromatic material embedded in the network or matrix in random distribution in varying depths below the top surface of the article to provide a three dimensional appearance See Tobin, Col. 2, lines 52 to 59. Chromatic material in the form of a dye is applied in different, but overlapping patterns 29 to mat 26. Mats 25 and 26 are then assembled as layers of a laminated structure, mat 26 resting on top of mat 25 so that the article ultimately produced will have a truly marble-like appearance. See Tobin, Col. 3, lines 46 to 52.

Amended claim 1 of the present invention recites a floor covering, comprising: an elastomer material having a textured surface including a plurality of unevenly distributed elevations, wherein each of the plurality of elevations partially overlap one another and have a rectangular shape with rounded corners, and wherein the elevations have edge lengths of between 1.2 mm and 6 mm and heights of between 0.01 mm and 0.1 mm.

As admitted DE '381 does not specifically disclose the pattern of the rectangles as overlapping as claimed. It is respectfully submitted that Tobin also does not teach or suggest a textured surface wherein a plurality of elevations partially overlap one another. Instead, Tobin discloses a molded composite article, as illustrated in figure 7 of Tobin, made of a laminated body made up of a multiple mats bearing liquid chromatic material disposed in overlapping designs to create a marble-like appearance. See Tobin at Col. 2, lines 47 to 51. However this surface is flat. Thus, even if Tobin were combinable with DE '381 (which it is respectfully submitted that it is not), the combination would not result in the present invention.

It is also respectfully submitted that there is no motivation to combine the floor covering of DE '381 with the molded composite article or molding technique of Tobin to create the claimed structure. If anything, one of skill in the art would have replaced the synthetic foil which on the top surface includes bumps and respectively depressions wherein the depressions (3) are finished smoothly respectively high-glossy and the bumps (2a, 2b) are finished in roughly dully manner of DE '381 with mats 25 and 26 of Tobin that are then assembled as layers of a laminated structure to produce an article with a flat surface having a marble-like appearance resulting in a flat surface with a marble like appearance or at most keeping the structure of DE '381. Tobin teaches no structural modification. See Tobin at Col. 2, lines 45 to 53.

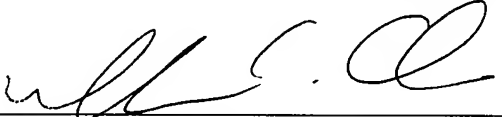
Withdrawal of the rejection to claim 1 under 35 U.S.C. § 103 (a) is respectfully requested. With respect to the dependent claims 2-10, withdrawal of the rejections under 35 U.S.C. § 103 (a) is respectfully requested in view of the above.

**CONCLUSION**

The present application is respectfully submitted as being in condition for allowance and applicants respectfully request such action.

Respectfully submitted,  
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: \_\_\_\_\_

  
William C. Gehris  
Reg. No. 38,156

Davidson, Davidson & Kappel, LLC  
485 Seventh Avenue  
New York, New York 10018  
(212) 736-1940